

August 9, 2005

Subcommittee on the Federal Workforce
And Agency Organization
2157 Rayburn House Office Building
Washington, DC 20515

Re: Tension in the Tinderbox Finding Fairness for Federal Firefighter

Dear Committee Members:

Good Morning. I'm Ryan Beaman Southern District Vice President for the Professional Fire Fighters of Nevada and a member of the International Association of Fire Fighters. I'm here today to express support for two bills introduced in the 109th congress. The first bill is (HR 697) Federal firefighters Fairness Act that was introduced by Congresswoman JoAnn Davis (R-VA) and Congresswoman Lois Capps (D-CA).

Firefighters are exposed on a daily basis to stress, smoke, heat and various toxic substances. As a result, firefighters are far more likely to contract heart disease, lung disease and cancer than other professions. Firefighters increasingly assume the role of the nation's leading providers of emergency medical service and are exposed to many infectious diseases. Heart disease, lung disease, cancer and infectious disease are now the leading causes of disability and death for firefighters. Numerous studies have found that these illnesses are direct occupational hazards of firefighting.

In recognition of this link, nearly 40 states have enacted "presumptive disability" laws, which presume that cardiovascular disease; certain cancers and infectious diseases are job related for purposes of workers compensation and disability retirement unless proven otherwise. No such law covers firefighters employed by the federal government.

Our nation's federal firefighters have some of the most hazardous and sensitive jobs in our country. While protecting our national interests on military installations, nuclear facilities, VA hospitals, and other federal facilities, they are routinely exposed to toxic substances, biohazards, temperature extremes and stress.

Under the Federal Employee Compensation Act (FECA), federal firefighters must be able to pinpoint the precise incident or exposure that caused a disease in order for it to be considered job related.

This burden of proof is extraordinarily difficult for firefighters to meet because they respond to a wide variety of emergency calls, constantly working in different environments under different conditions. As result, very few cases of occupational disease contracted by fire fighters have been deemed to be service-connected.

The presumption is rebuttable, meaning that illnesses would not be considered job-related if the employing agency can demonstrate that the illnesses likely has another cause. For example, a firefighter who smokes would not be able to receive line-of-duty disability for lung cancer. But the burden of proof would be on the employer, rather than the injured employee or his or her family.

It is fundamentally unfair that firefighters employed by the federal government are not eligible for the disability retirement for the same occupational diseases as their municipal counterparts. The disparity is especially glaring in instances where federal firefighters work along side municipal firefighters during mutual aid responses and are exposed to the same hazardous conditions.

If the federal government wants to be able to recruit and retain qualified firefighters, it must be able to offer a benefits package that is competitive with municipal sector.

HR 697 amends the Federal Employee Compensation Act to create a rebuttable presumption that cardiovascular disease; certain cancers and infectious diseases are job-related for the purposes of workers compensation and disability retirement.

The second bill being (HR 408) that was introduced by Congressman Richard Pombo (R-CA). This legislation will correct the problems of portal-to-portal compensation for wildland firefighters.

As must of you know federal firefighters are called out at a moment's notice to battle fires and support other emergency incidents all over the U.S. as well as other countries on occasion. In these instances firefighters are compensated for their travel and work time only. These firefighters are not compensated what-so-ever for being away their homes and families. In other words, it makes no difference in pay for a federal wildland firefighter to be away from their home for extended periods of time. These firefighters have fought fires throughout the western U.S., the eastern U.S., Canada, and Alaska. They have been pre-positioned for fires in other states and only worked 8-hour shifts as if they where at home, with no extra compensation for this duty.

They may be literally thousands of miles from home, but get paid as if they were going home every night to the comforts of their home and family.

Frequently crews have been utilized in a fire suppression strategy known as “Coyote Tactics”. This implies that we construct firelines all day, then, just before dark, receive a helicopter sling loaded of military rations, drinking water, and paper sleeping bags delivered to our fireline location. Once they are provided these items of survival, they go off the pay clock while remaining on the fireline. Firefighters have lost a lot of sleep with the ongoing concern of fire spread and fire behavior during these instances. Sleeping in the dirt, on some ridge top in Montana, 75 miles from the nearest community is not the same as going home at night once your shift is over, yet the compensation is the same, that is, without pay. They do not have the freedom to engage in personal freedoms during these periods as we would at home; instead they are usually trying to dry the sweat off around a campfire before their body begins to chill, while they are at the complete mercy of the incident. It is a rugged environment, on the borderline of heat exhaustion and dehydration at times and hypothermia at others, sometimes in the same 24-hour period. They go weeks without a shower or even washing of their hands on some assignments, yet they are compensated the same as if we were returning to our homes every night and the luxuries of a hot meal, shower, and a bed. They are not getting any additional compensation, yet they are making sacrifices left and right.

The Federal lands they protect contain some of the most rugged terrain in the United States. Firefighters work long hours on steep slopes and rationed water to make it through their shifts. They carry all the necessary provisions to survive on their backs while they perform these arduous duties. Work shifts on these assignments are usually 14-16 hours long and last up to 21 days at a time. Sleep is something that the wildland firefighters usually do not get enough of on these assignments. As during your off time in a fire camp situation, you can spend a lot of your programmed sleep time standing in long lines to eat, shower or use a portable toilet. These situations are uncomfortable, lack good sanitation and are sleep depriving. Yet they are paid as if they are going home after every shift, which means that is “no pay” during the non-work hours. In the case of working a 16-hour shift, during your eight hours off, a firefighter gets about 5-6 hours sleep.

Sometimes the Incident Commander deems the fire camp “closed”. This means that firefighters are confined to the perimeter of fire camp. Firefighters in this case are treated no different than prisoners during non-pay hours. Imagine being told you are off the clock, but you cannot leave the premises. It would give the appearance of a violation of one’s civil rights.

Another example of the need for portal-to-portal compensation occurs when firefighters are off duty after shift and not restricted to fire camp. Firefighters may be visiting a nearby community and unavailable during off shift time when an emergency need occurs and they cannot be found. Many, many times over the years they have been awakened while in fire camp to engage in fire suppression activities due to structures or control lines being threatened. Sometimes these critical occurrences last 24-48 hours. The bottom line is that the crew supervisors cannot retain complete control of their resources during off duty/non-pay status. With the common exposures of heat exhaustion, dehydration and muscle fatigue to mention a few, incidents need to be managed to allow for maximum recovery to personnel between work shifts as well as maintain control of the troops for their availability should the need occur.

In this part of the country, county, city, and state cooperators are paid portal-to-portal when they fight federal wildland fires. It appears unjust that the federal wildland agencies will pay their cooperators round the clock to help put out fires on federal lands when not returning to their home unit after shift, yet those same agencies do not pay their own firefighters on the same incidents. This decreases the morale of the troops to know that someone working side by side with them is compensated with constant pay, while the federal wildland firefighters are off the clock. This issue has escalated in the last several years as personnel availability in the federal workforce has shrunk drastically, this due to qualified personnel retiring with an insufficient younger workforce in place and the fact that many qualified personnel are discouraged to do the same job as cooperators, yet receive a much lower compensation.

The federal wildland agencies agree that portal-to-portal pay is needed, but I am not certain that they are pursuing this for the reasons previously mentioned. Their focus seems to be on simplifying pay calculations associated with emergency incidents. The proposal the federal wildland agencies have been working on would allow for portal-to-portal pay while working on emergency incidents at a base pay rate, i.e., no overtime or hazardous duty pay. This proposal could reduce firefighters pay on a regularly scheduled day by up to 25% from current pay scheme. Although we are glad to see the interest and acknowledgement for the need for portal-to-portal pay by the agencies, a potential loss of wages as compared to the already low wage scheme is unacceptable. Implementation of the agencies proposed portal-to-portal pay system would be in violation of the current Fair Labor Standards Act (FLSA).

A realistic portal-to-portal compensation would be like that of the cooperators who are employed and provide for; (1) compensation for wildland firefighters while assigned to emergency incidents for being away from their homes and families and enduring the rather primitive environment the incident offers, and (2) provide for the necessary control of resource personnel on incidents to increase firefighting efficiency.

The federal wildland firefighting workforce has aged progressively over the last two decades. Retention of the newest employees is a problem. In some areas such as Southern California, the numbers are staggering and firefighters are opting to leave to other cooperating agencies which provide better pay, incentives and year round employment.

Quite simply, the portal-to-portal pay is that wildland firefighters are only paid for the hours they are actually performing duties even when they are assigned to a fire camp, hundreds of miles from their own. (HR 408) entitles a wildland firefighter employed by the Department of Agriculture or the Department of the Interior to compensation for the entire period of time such firefighter is engaged in officially ordered or approved duties in responding to a wildland fire or other emergency.

Thank you for your time and contribution on these matters. If you have any questions, please contact me at (702) 870-1908.

Sincerely,

Ryan Beaman
Southern District Vice-President
Professional Fire Fighters of Nevada